FILE COPY

In the

Supreme Court of the United States.

OCTOBER TERM, 1936.

No. [redacted] 34

WORCESTER COUNTY TRUST COMPANY, EXECUTOR,
Petitioner,

v.

RAY L. RILEY, CONTROLLER OF THE STATE OF CALIFORNIA, W. H. H. GENTRY, INHERITANCE TAX ATTORNEY OF THE STATE OF CALIFORNIA,

AND

FRANK P. SPROUL, INHERITANCE TAX APPRAISER OF THE STATE OF CALIFORNIA, *Respondents.*

MOTION FOR LEAVE TO FILE PETITION FOR INTERVENTION AND PETITION FOR INTERVENTION.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT.

PAUL A. DEVER,
Attorney General of Massachusetts.

ADDISON C. GETCHELL & SON, LAW PRINTERS, BOSTON.

In the

Supreme Court of the United States.

OCTOBER TERM, 1936.

No. 922.

WORCESTER COUNTY TRUST COMPANY, EXECUTOR,
Petitioner,
v.
RAY L. RILEY, CONTROLLER OF THE STATE OF CALIFORNIA, W. H. H. GENTRY, INHERITANCE TAX ATTORNEY OF THE STATE OF CALIFORNIA,
AND
FRANK P. SPROUL, INHERITANCE TAX APPRAISER OF THE STATE OF CALIFORNIA, *Respondents.*

PETITION FOR INTERVENTION.

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Henry F. Long, Commissioner of Corporations and Taxation for the Commonwealth of Massachusetts, brings this petition against the Worcester County Trust Company, Executor under the will of Robert H. Hunt, and Ray L. Riley, Controller of the State of California, *et al.*, respectively complainant, petitioner, and one of the respondents in the above-entitled proceeding, all citizens of the United States of America, the said Executor being a resident of the Commonwealth of Massachusetts and the said Ray L. Riley *et al.* being residents of the State of California, and alleges:

1. That the said Henry F. Long is the Commissioner of Corporations and Taxation for the Commonwealth of Massachusetts and as such is charged with the assessment and collection of Massachusetts inheritance and estate taxes and that he is a resident of the Commonwealth of Massachusetts;

2. That the above-entitled proceeding is an action in equity in the nature of interpleader and has been brought by the Worcester County Trust Company, Executor under the will of Robert H. Hunt, in the United States District Court for the District of Massachusetts, the respondents to said action being the said Ray L. Riley, Controller of the State of California, *et al.*, and the said Henry F. Long, and that said proceeding is still pending in said District Court;

3. That an interlocutory order granting an injunction against the respondents in said action was entered by said District Court on April 28, 1936, and that the said Ray L. Riley *et al.*, respondents, did appeal from said interlocutory order to the Circuit Court of Appeals for the First Circuit and that the said Henry F. Long, Commissioner as aforesaid, was asked to join in said appeal and did decline to join therein and that the said Henry F. Long, Commissioner as aforesaid, was not made a party to said appeal to said Circuit Court;

4. That the Circuit Court of Appeals for the First Circuit has reversed said District Court, with directions that "The order of the District Court granting a temporary injunction is vacated and the case is remanded to that Court with directions to dismiss the bill of complaint for want of jurisdiction," and that the said Henry F. Long, Commissioner as aforesaid, did file in the Circuit Court an application to be restored as a party respondent, which was on April 5, 1937, denied by the following order: "The application of Henry F. Long, Commissioner of Corpora-

tions and Taxation, filed April 2, 1937, in this case, is denied, without prejudice to renew his application in the Supreme Court of the United States if such Court takes the case on certiorari."

5. That the Executor, the Worcester County Trust Company, has filed in this Court a petition for certiorari to said United States Circuit Court of Appeals for the First Circuit;

6. That under the laws of Massachusetts, G.L. (Ter. Ed.) c. 65, §1, the Massachusetts legacy and succession tax is imposed upon "all property . . . which shall pass by will" and it has been determined that excise taxes paid other states on succession of property located in those states can be deducted by representatives of Massachusetts decedents in computing the succession tax due Massachusetts (*Hollis* v. *Treasurer*, 242 Mass. 163); that, if the jurisdiction of the Federal Courts in the case at bar is denied, as it has been denied by the decision in the Circuit Court of Appeals for the First Circuit, it is reasonable to expect that a $100,000 California tax will be assessed on a basis of residence in that State and collected from the estate of Robert H. Hunt, a Massachusetts decedent; that thereupon the Executor will claim that the property passing by will, which is subject to a Massachusetts succession tax, is correspondingly decreased; that such an inroad upon the Massachusetts revenue, which it is your petitioner's duty to collect, is a matter of grave concern to your petitioner and that he is therefore a party seriously interested in the outcome of the present litigation;

7. That your petitioner as Tax Commissioner also is directly interested in the subject of this action because of his position as Tax Commissioner and his duty to cooperate in establishing a fair and uniform system of collecting inheritance taxes throughout the country, so that

the present numerous controversies as to domicile between the various State Tax Commissioners can be solved with justice to all concerned;

8. That your petitioner, as above stated, is an interested party in this action and desirous that the plaintiff, Worcester County Trust Company, Executor, secure the relief demanded by it, and that therefore your petitioner prays that he be made a party defendant in the proceedings recently docketed in this Court.

Respectfully submitted,

HENRY F. LONG,
Commissioner of Corporations and Taxation,
By PAUL A. DEVER,
Attorney General of Massachusetts.